

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20544**

In the Matter of	)	
Vonage Holdings Corp.	)	
Petition for Limited Waiver	)	
of Section 52.15(g)(2)(i) of the	)	CC Docket No. 99-200
Commission's Rules Regarding Access	)	
to Numbering Resources	)	

**PETITION FOR LIMITED WAIVER**

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**PETITION FOR LIMITED WAIVER**

**I. INTRODUCTION**

Vonage Holdings Corporation ("Vonage"), respectfully requests that the Federal Communications Commission ("Commission") grant it a limited waiver of Section 52.15(g)(2)(i) of the Commission's rules, 47 C.F.R. § 52.15(g)(2)(i), to allow Vonage to obtain numbering resources directly from the North American Numbering Plan Administrator ("NANPA") and/or the Pooling Administrator ("PA") in a manner comparable to the waiver granted to SBC Internet Services, Inc. ("SBC-IS").<sup>1</sup> Vonage intends to use these numbering resources to deploy IP-enabled services, including Voice over Internet Protocol ("VoIP") services, on a commercial basis to residential and business customers.

The Commission should grant this limited waiver request because good cause exists and granting the request would serve the public interest. Vonage intends to continue to deploy innovative new services using more efficient means of interconnection with the Public Switched Telephone Network ("PSTN"). By improving its efficiency in the delivery of VoIP services, Vonage will be able to continue to innovate its service offerings to the benefits of Vonage's

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<sup>1</sup> *In the Matter of Administration of the North American Numbering Plan*, Order, CC Docket 99-200, FCC 05-20 (released Feb. 1, 2005) ("*SBC-IS Waiver Order*").

customers. The interconnection will be similar to the means used by a state-certificated carrier, but Vonage would not be considered a carrier. Additionally, Vonage requests the waiver of Section 52.15(g)(2)(i) in a manner comparable to the SBC-IS waiver and until the Commission adopts final numbering rules either through the North American Numbering Council or in the *IP-Enabled Services* proceeding.<sup>2</sup> Vonage will comply with all of the conditions established by the Commission in the *SBC-IS Waiver Order*.<sup>3</sup> Furthermore, Vonage asks the Commission to review and grant its waiver request on an expedited basis given that the waiver involves new technologies.

## **II. BACKGROUND**

Vonage is able to obtain access to telephone numbers through competitive local exchange carriers (“CLEC”) by purchasing Primary Rate Interface (“PRI”) or Direct Inward Dialing (“DID”) services. These telephone numbers are necessary for Vonage customers utilizing a broadband IP network to receive calls from parties served by a carrier operating a time division multiplexed (“TDM”) network within the PSTN. According to the arrangements with CLECs, the carrier terminates Vonage’s customer’s communications on the PSTN or delivers the traffic to another carrier for termination on the PSTN.<sup>4</sup>

VoIP providers, however, are not able to directly acquire telephone numbers from NANPA or the PA according to the Commission’s existing rules.<sup>5</sup> Specifically, Section 52.15(g)(2)(i) requires that an applicant requesting North American Numbering Plan numbering

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<sup>2</sup> *IP-Enabled Services*, Notice of Proposed Rulemaking, WC Docket No. 04-36, 19 FCC Rcd 4863 (2004) (“*IP-Enabled Services NPRM*”).

<sup>3</sup> *SBC-IS Waiver Order* at ¶¶ 4, 9.

<sup>4</sup> For example, interexchange traffic is delivered to incumbent LECs.

<sup>5</sup> SBC-IS is the sole exception because the Commission previously granted SBC-IS’ waiver request.

resources must be “authorized to provide service in the area for which the numbering resources are being requested.”<sup>6</sup> The Commission has interpreted this rule as requiring “carriers [to] provide, as part of their applications for initial numbering resources, evidence (*e.g.*, state commission order or state certificate to operate as a carrier) demonstrating that they are licensed and/or certified to provide service in the area in which they seek numbering resource[s].”<sup>7</sup> In other words, an applicant must be a state-certificated common carrier in order to obtain numbering resources directly from NANPA and/or the PA and Vonage is not.

The Commission has found that Vonage’s service offering does not require state certification and that Vonage provides an interstate service.<sup>8</sup> Since Vonage is not a state-certificated common carrier, the Company cannot obtain numbering resources directly from NANPA and/or the PA without a waiver of Section 52.15(g)(2)(i) of the Commission’s rules. If Vonage’s waiver request is granted, the Company intends to offer VoIP services that interconnect with the PSTN in a more efficient manner by interconnecting with the PSTN on a trunk-side basis, at a centralized switching location, *e.g.*, a tandem switch. Vonage believes that this type of interconnection will allow it to use its softswitch and media gateways more efficiently to overcome the availability and scalability limitations inherent in retail interconnections with the PSTN.

Vonage requests a limited waiver of Section 52.15(g)(2)(i) so that it can obtain numbering resources directly from NANPA and/or the PA without having to become a state-certificated common carrier. Allowing Vonage to directly obtain numbers from NANPA and/or

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<sup>6</sup> 47 C.F.R. § 52.15(g)(2)(i).

<sup>7</sup> *Numbering Recourse Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, 15 FCC Rcd 7574, ¶ 97 (2000).

<sup>8</sup> *In the Matter of Vonage Holdings Corporation*, 19 FCC Rcd 22404, ¶¶ 14-22 (2004).

the PA will help to expedite the implementation of IP-enabled services that interconnect to the PSTN and will enable Vonage to deploy innovative new services and encourage the rapid deployment of new technologies and advanced services that benefit American consumers. In addition, granting a waiver to Vonage to facilitate new interconnection arrangements is consistent with Commission precedent.<sup>9</sup>

### **III. DISCUSSION**

#### **A. “Good Cause” Exists to Grant Vonage’s Request for a Limited Waiver**

Pursuant to Section 1.3 of the Commission’s rules, the Commission may waive a rule when “good cause” is demonstrated.<sup>10</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>11</sup> In addition, the Commission may take into account considerations of hardship, equity, or the more effective implementation of overall policy on an individual basis.<sup>12</sup> Thus, waiver of the Commission’s rules is appropriate when special circumstances warrant a deviation from the general rule and such a deviation will serve the public interest.<sup>13</sup>

Special circumstances warrant a deviation from the general rule that limits the assignment of numbering resources to state-certificated carriers. In granting SBC-IS’ request for waiver, the Commission highlighted that granting the waiver request would expedite the implementation of IP-enabled services interconnected to the PSTN and allow for the deployment of innovative new

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<sup>9</sup> *SBC-IS Waiver Order*, at ¶ 6.

<sup>10</sup> 47 C.F.R. § 1.3; *see also* *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“*WAIT Radio*”).

<sup>11</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

<sup>12</sup> *Id.*; *WAIT Radio*, 418 F.2d at 1159.

<sup>13</sup> *Id.*

services as well as encourage the rapid deployment of innovative new services that benefit American consumers.<sup>14</sup> Granting Vonage’s waiver request would serve to further the same goals and would encourage the implementation of PSTN interconnected IP-enabled services and other new services and technologies. In addition, by granting the waiver, Vonage will be able to deploy more efficiently configured networks and services without having to subject itself to state common carrier regulation solely for the purpose of obtaining direct access to numbering resources. Accordingly, “good cause” exists to grant Vonage’s waiver request.

Granting Vonage’s request for waiver would also further the public interest. In allowing Vonage to achieve efficiencies that the Company cannot realize without direct access to numbering resources, the Commission is encouraging innovation and expediting the delivery of advanced services to consumers.<sup>15</sup> Furthermore, granting the waiver petition furthers the public interest because it encourages the deployment of broadband infrastructure to United States’ citizens. The Commission has recognized that IP-enabled services have increased economic productivity and growth.<sup>16</sup> VoIP, in particular, encourages consumers to demand broadband connections creating a “virtuous cycle” where market forces lead to the deployment of additional IP-enabled services.<sup>17</sup> By granting this waiver, the Commission will stimulate the implementation of IP-enabled services and allow for increased communications choices for American consumers. Accordingly, granting the waiver request will serve the public interest.

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<sup>14</sup> *SBC-IS Waiver Order* at ¶ 4.

<sup>15</sup> *Id.* at ¶ 6.

<sup>16</sup> *Id.* at ¶ 8; *IP-Enabled Services NPRM* at ¶ 5.

<sup>17</sup> *Id.* at ¶ 8.

**B. The Requested Waiver is Comparable to the SBC Internet Services, Inc. Waiver**

The Commission granted a limited waiver to SBC-IS and stated that similar relief was available “to an extent comparable” to what the Commission set forth.<sup>18</sup> Vonage submits that it will comply with all of the conditions the Commission established in granting SBC-IS’ request for numbering resources. Specifically, Vonage will comply with the Commission’s numbering utilization and optimization requirements and industry guidelines and practices. Vonage will comply with all relevant numbering regulations.<sup>19</sup> Vonage will also file the Numbering Resource Utilization and Forecast Report (“NRUF”), will comply with the thousand-block number pooling requirements, and will continue to act in accordance with local number portability requirements.<sup>20</sup>

Moreover, Vonage only requests the waiver until the Commission adopts final numbering rules regarding IP-enabled services. Vonage recognizes that the Commission has not yet decided whether any action relating to numbering resources is needed.<sup>21</sup> However, granting this limited waiver will not prejudice the outcome of the *IP-Enabled Services* proceeding because the Commission has complete discretion to take whatever action it finds necessary.

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<sup>18</sup> *SBC-IS Waiver Order* at ¶ 4.

<sup>19</sup> *Id.* at ¶¶ 4, 9.

<sup>20</sup> *Id.*

<sup>21</sup> *IP-Enabled Services NPRM* at ¶ 76 (seeking comments on the desirability of numbering resources for IP-enabled services).



**C. The Commission Should Grant Vonage's Waiver Request on an Expedited Basis**

In the *New Technology Policy Statement*, the Commission stated that it would review waiver requests for technical and market trials on an expedited basis.<sup>22</sup> Vonage is seeking a waiver of Section 52.15(g)(2)(i) to deploy IP-enabled service offerings until the Commission adopts final numbering rules, even though the deployment is not a trial. Consequently, the Commission should review Vonage's request as described in the *New Technology Policy Statement*. As previously mentioned, the Commission has acknowledged the importance of encouraging the development of IP-enabled services.<sup>23</sup> Furthermore, Vonage is only seeking a waiver until the Commission adopts final numbering rules for IP-enabled services.

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<sup>22</sup> 1998 Biennial Regulatory Review – Testing New Technology, Policy Statement, CC Docket 98-94, FCC 99-53, ¶¶ 4, 20, 23-24 (1999) (“*New Technology Policy Statement*”).

<sup>23</sup> *IP-Enabled Services NPRM* at ¶ 5.

#### IV. CONCLUSION

For the reasons described above, Vonage respectfully requests that the Commission grant the Company a limited waiver of Section 52.15(g)(2)(i) of its rules—comparable to that granted to SBC-IS – to allow Vonage to obtain numbering resources directly from NANPA and/or the PA for use in the provision of IP-enabled services.

Respectfully submitted,

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